

CLIFTON BUDD & DEMARIA, LLP
ATTORNEYS AT LAW

THE EMPIRE STATE BUILDING
350 FIFTH AVENUE, 61ST FLOOR
NEW YORK, NY 10118

TEL 212.687.7410
FAX 212.687.3285
WWW.CBDM.COM

March 20, 2020

VIA ECF

Honorable A. Kathleen Tomlinson
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
P.O. Box 9014
Brooklyn, New York 11201

Re: *John Purcell v. New York Institute of Technology-College of Osteopathic Medicine*
Case No. 2:16-cv-03555 (GRB)(AKT)

Dear Magistrate Tomlinson:

This firm represents defendant New York Institute of Technology (“NYIT”), improperly named herein as New York Institute of Technology – College of Osteopathic Medicine, in the above-referenced action. Pursuant to Sections I.B and I.D of Your Honor’s Individual Practice Rules, we submit the following letter updating the Court on the parties’ progress in discovery. NYIT also writes to respectfully request an extension of time to complete discovery.

Since the initial settlement conference before Your Honor on September 26, 2019, the parties have been engaged in document discovery. Plaintiff served responses to NYIT’s document requests on Friday, March 13, 2020.

To date, NYIT is still working to complete production responsive to Plaintiff’s document requests. Production in this matter has involved significant electronic discovery. NYIT required the services of a third-party vendor to facilitate review of thousands of pages of potentially responsive emails. While initial review of these materials has been completed, the identified responsive materials contain educational information and records that may be subject to the Family Educational Rights and Privacy Act of 1974 (FERPA). Prior to production, these materials will require significant redaction. The parties also plan to move for a protective order to maintain the confidentiality of certain documents protected under FERPA.

Accordingly, NYIT seeks a sixty day extension of time to submit its responses to Plaintiff’s document demands, until Tuesday, May 19, 2020. This is the first application for an extension of time in discovery. We have conferred with counsel for Plaintiff, who consents to this application.

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If this request is granted, we ask that the status conference currently scheduled before Your Honor for Tuesday, March 24, 2020 at 10:00 am be adjourned for a later date after the Tuesday, May 19th at this Court's earliest convenience.

Respectfully Submitted,

CLIFTON BUDD & DEMARIA, LLP
Attorneys for Defendant

By: 
Stephen P. Pischl

cc: **VIA ECF**
The Law Offices of Stewart Lee Karlin, P.C.
Attorneys for Plaintiff